IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 19.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.268 of 2006

Nithiaraj Petitioner

Vs.

1. The District Magistrate and District
Collector,
Nagapattinam District, Nagapattinam.

2. The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus directing the respondents to produce the detenu namely Mariyappan, S/o.Muthu before this Court as he is detained as per the order of the first respondent in C.O.C.No.3/06 dated 9.2.2006 as he is confined at Central Prison, Trichy and set him at liberty and call for records relating to the said order and set aside the same.

For Petitioner : Mr.O.S.Thilak
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by V.DHANAPALAN J.)

The petitioner, who is the son of the detenu by name Mariyappan, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 09.02.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 12.03.2006 was received by the Government on 16.03.2006 and remarks were called for on 17.03.2006. Thereafter, the remarks were received by the Government on 27.03.2006 and the File was submitted on 28.03.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary also on the same day i.e. on 28.03.2006 and finally, the Minister for Prohibition and Excise passed orders on 29.03.2006. The rejection letter was prepared on 10.04.2006 and the same was sent to the detenu on 12.04.2006 and served to him on 15.04.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 29.03.2006, there is no explanation at all for taking time for preparation of rejection letter till 10.04.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector, Nagapattinam District,
Nagapattinam.

3. The Superintendent, Central Prison, Trichy.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.268 of 2006

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SR/26.6.2006

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